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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DREW J. RIBAR, PRO SE PLAINTIFF

Case No.: 3:24-cv-00526-ART-CLB

V.

BUILD OUR CENTER, INC., ET AL.,

DEFENDANTS.

**PLAINTIFF’S OPPOSITION TO
DEFENDANT BUILD OUR CENTER,
INC.’S MOTION TO DISMISS**

I. INTRODUCTION

Plaintiff, **Drew J. Ribar**, acting pro se, submits this Opposition to Defendant Build Our Center, Inc.’s (“BOC”) Motion to Dismiss. Defendant's motion lacks merit as Plaintiff has sufficiently alleged viable claims under federal law, supported by extensive documentary evidence. Moreover, Defendant's procedural improprieties and untimely filing have prejudiced Plaintiff, warranting denial of the Motion to Dismiss.

II. BACKGROUND

Procedural History:

1. Plaintiff filed this action on November 20, 2024.

2. Defendant BOC was served on November 27, 2024, as evidenced by the Affidavit of Service (Document 18).

3. Defendant failed to file a responsive pleading within the 21-day limit under Rule 12(a)(1)(A).

Defendant's Untimely Actions:

1. Plaintiff sought a Clerk's Entry of Default on December 27, 2024.
2. Hours later, Defendant appeared through counsel, despite having prior notice of the action.
3. Plaintiff subsequently withdrew the default request as a professional courtesy to accommodate Defendant's late response.

Nature of Claims:

Plaintiff alleges violations of civil rights under 42 U.S.C. § 1983, predicated on Defendant's collaboration with Washoe County Library System and resultant state action. Plaintiff also asserts negligence and related claims based on Defendant's actions during publicly sponsored events.

III. LEGAL ARGUMENT

A. Defendant's Procedural Violations Preclude Dismissal

Under Federal Rule of Civil Procedure 12(a)(1)(A), Defendant was required to file a response by December 18, 2024. The failure to comply prejudiced Plaintiff by delaying this litigation.

Procedural fairness, enshrined in FRCP 1, requires the Court to deny dismissal where procedural defects harm a litigant's rights.

The record also indicates improper pre-litigation coordination between BOC and Washoe County counsel, violating ethical standards and exacerbating prejudice (Exhibit 4).

B. Plaintiff's Complaint States Valid Claims Under § 1983

Nexus Between BOC and State Action:

1. Social media posts, emails, and media reports establish a collaborative relationship between BOC and Washoe County Library System. This partnership included financial remuneration, joint event planning, and promotional activities (Exhibits 1–3).
2. Under **Johnson v. Knowles**, 113 F.3d 1114 (9th Cir. 1997), a private actor may be liable under § 1983 if there is a sufficiently close nexus between the private actor's conduct and the state such that the private conduct may be treated as state action.
3. Unlike **Johnson**, where the court found no nexus, the collaboration between BOC and Washoe County Library—including shared resources, co-sponsorship of events, and delegation of responsibilities—demonstrates entwinement sufficient to attribute BOC's conduct to the state. This satisfies the state-action test established by **Brentwood Academy v. Tennessee Secondary School Athletic Assn.**, 531 U.S. 288 (2001).

1 **Sufficient Allegations of Misconduct:**

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3 Plaintiff alleges that BOC actively participated in discriminatory practices, including event
4 access restrictions and retaliatory actions. These claims align with precedent allowing § 1983
5 actions against private actors functioning as state agents.
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8 **C. Claims Are Supported by Factual Allegations**

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10 Plaintiff's allegations are supported by detailed exhibits, including:
11

- 12 1. Correspondence evidencing BOC's central role in event operations (Exhibit 2).
13
14 2. Media reports confirming the partnership and mutual accountability between BOC and
15 Washoe County (Exhibit 3).

16 Under *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), these facts "plausibly suggest" entitlement to
17 relief.
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21 **D. Procedural Fairness Demands Denial of the Motion**

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23 The Court must consider the substantial prejudice to Plaintiff resulting from Defendant's
24 procedural delays and potential collusion with other defendants. Defendant's motion, filed after
25 considerable delay, undermines judicial efficiency and fairness.
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1 **IV. CONCLUSION**

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3 For the foregoing reasons, Plaintiff respectfully requests that the Court deny Defendant's Motion
4 to Dismiss in its entirety. In the alternative, Plaintiff seeks leave to amend the complaint to cure
5 any perceived deficiencies.
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9 **Respectfully Submitted,**

10 **/s/ Drew J. Ribar**

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15 **Pro Se Plaintiff**
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INDEX OF EXHIBITS

Exhibit 1

Title: Social Media Posts and Press Releases

Description: Posts and press releases from "Our Center" detailing collaboration with the Washoe County Library System, including announcements of events such as Drag Story Hour and evidence of financial support for library staff.

Relevant Information: Demonstrates joint activity and financial connections between Build Our Center, Inc. and the Washoe County Library System.

Source: Exhibit 1 Opposition to Dismiss

Exhibit 2

Title: Washoe County Incident Reports and Internal Communications

Description: Internal emails and reports from Washoe County Library employees regarding event planning and incident debriefings for Drag Story Hour and RainbowFest.

Relevant Information: Highlights BOC's coordination with library staff, event logistics, and direct involvement in programming.

Source: Exhibit 2 Opposition to Dismiss

Exhibit 3

Title: Media Reports

Description: Articles from Reno News & Review, Our Town Reno, and KUNR discussing the partnership between Washoe County Libraries and BOC.

Relevant Information: Independent confirmation of the collaborative relationship between BOC and Washoe County Libraries, including evidence of financial contributions and program implementation.

Source: Exhibit 3 Opposition to Dismiss

Exhibit 4

Title: Procedural Violations and Communications

Description: Documents showing communications between BOC's counsel and Washoe County legal representatives before formal notice of appearance and during default filing periods.

Relevant Information: Highlights procedural improprieties, delays in filing responses, and potential collusion that prejudiced Plaintiff's litigation efforts.

Source: Exhibit 4 Opposition to Dismiss